

Appl. No. 10/825,792
Docket No. 9215
Amdt. dated November 13, 2006
Reply to Office Action mailed on May 12, 2006
Customer No. 27752

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REMARKS

Claim Status

Claims 12-43 are pending in the present application.

Claims 12, 25, and 30 have been amended to clarify the description of the claimed toothbrushes. Support for these amendments is found in the drawings.

In addition, new Claims 33-43 have been added. Support for these amendments is found in the specification on pages 8-11 and in figures 5-10.

It is believed these changes do not involve any introduction of new matter. Consequently, entry of these changes is believed to be in order and is respectfully requested.

Rejection Under 35 USC §112, First Paragraph

The Office Action rejects Claims 21, 22, and 28 under 35 USC §112, first paragraph, asserting that the specification and the drawings do not teach or show a massaging element with both conical projections and ridge-like elements. Applicants respectfully traverse.

The specification states, "The outer surface of the massaging plate may be formed so as to provide one or more outwardly extending ridges, protrusions, or other members that serve to provide specific massaging characteristics." (Emphasis added). (Pages 8-9). Therefore, applicants respectfully submit that the specification supports a variety or combination of types of projections on a single massaging plate.

Rejection Under 35 USC §112, Second Paragraph

The Office Action rejects Claims 12, 25, and 30 under 35 USC §112, second paragraph, asserting that the limitation stating a "generally circular collection of bristle tufts" is unclear. Applicants have amended Claims 12, 25, and 30 to clarify that the limitation refers to the shape of the collection of bristle tufts and, therefore, respectfully request that this rejection be withdrawn.

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Rejections Under 35 USC §102

The Office Action rejects applicant's claims, contending the claims are separately anticipated under USC §102(b) by Maser (USPN 4827551), Psiharis (USPN 2253210), Pfleger (USPN D287072), and Himmel (USPN 1125532). Applicants respectfully traverse.

As understood, Maser discloses an electrical device comprising a massage head and/or a toothbrush that move in a rotary direction. (Col. 1, lines 26-27). In Maser's first three embodiments, the massage head comprises protuberances that cover the entire circumference of the head. In these embodiments, there is no toothbrush aspect to the device. (Col. 2, lines 38-48). In Maser's fourth embodiment, the head is axially subdivided, half comprising protuberances and the other half comprising a toothbrush. (Col. 2, lines 48-56).

In contrast, each claim of the present invention describes a toothbrush head that comprises a top face and a bottom face, wherein the top face comprises a brushing surface and the bottom face comprises a massaging surface. Maser's first three embodiments are clearly different from the present invention because they lack a brushing surface. Maser's fourth embodiment is also clearly different because the entire circumference of the head is covered by either massaging protuberances or a toothbrush, while the present invention has discrete brushing and massaging surfaces that do not touch each other.

As understood, Psiharis discloses a gum massage device to be used in conjunction with a toothbrush. (Col. 1, lines 1-4). Psiharis discloses several embodiments of its massaging unit. One embodiment comprises two longitudinally extending ridges along the edges of the massaging unit (Fig. 1, col. 2, lines 27-34), to which transverse grooves can be added (Fig. 4, col. 3, lines 1-5). Other embodiments add transverse grooves (Fig. 5, col. 3, lines 22-25) or rectangular depressions (Fig. 6, col. 3, lines 33-39) to the massaging unit itself. Still other embodiments extend the edges of a toothbrush head (Figs. 9 and 10, col. 3, line 66 – col. 4, line 4), and then provide indentations to such an extension (Fig. 8, col. 3, lines 44-56).

But none of Psiharis's embodiments include projections oriented in staggered rows, such as the present invention does. Figures 1, 6, 8, 9, and 10 do not contain rows of

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projections, and to the extent figures 4 and 5 can be construed to contain rows of projections, the rows are not staggered.

Similarly, Pfleger, as understood, discloses a toothbrush with protrusions on the back of the toothbrush head. But as can be clearly seen from figures 3 and 4, the protrusions are not oriented in staggered rows like the present invention, but instead line up.

Himmel, as understood, discloses a toothbrush with "a plurality of resilient protrusions 10, said protrusions being arranged in spaced relation as shown." (Lines 57-59). Neither figure 1, which shows a side view of the toothbrush, nor figure 3, which shows a transverse sectional view, demonstrate projections oriented in staggered rows.

Because Maser, Psiharis, Pfleger, and Himmel all fail to disclose each and every element of the present invention, none anticipate the present invention. Therefore, it is respectfully submitted that the claims are in a condition for allowance.

Applicants note that the Office Action contains other prior art rejections directed to the dependent claims. It is believed that those other rejections are now moot in view of this Response, and therefore those rejections have not been addressed herein. Applicants respectfully disagree with the substance of those rejections, and the lack of a response concerning those rejections should not be construed as a statement or admission concerning the merits thereof.

Conclusion

In light of the above remarks, it is requested that the Examiner reconsider and withdraw the rejections under 35 USC §112, 35 USC §102(b), and 35 USC §103(a). Early and favorable action in the case is respectfully requested.

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This response represents an earnest effort to place the application in proper form and to distinguish the invention as now claimed from the applied references. In view of the foregoing, reconsideration of this application, entry of the amendments presented herein, and allowance of Claims 12-43 is respectfully requested.

Respectfully submitted,

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